

Title 7

ALCOHOLIC BEVERAGES

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Division I. General Regulations

Chapter 7.04

BEER PERMIT BOARD

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7.04.010 Established.

A beer permit board is created and designated the metropolitan beer permit board. (Prior code § 5-1-1)

7.04.020 Membership—Terms.

The metropolitan beer permit board shall consist of seven members, to be appointed by the mayor and approved by the metropolitan council. Said members shall serve terms of four years each. Any vacancy other than the expiration of terms shall be filled for the unexpired term. The members presently constituting the metropolitan beer permit board shall succeed to the rights, powers, duties and obligations of the board subject to the Charter as authorized by this section. The members constituting the metropolitan beer permit board as of the effective date of the ordinance codified in this section shall continue in their respective positions until October 31, 1995, at which time said members' positions shall be deemed to have expired. (Ord. 93-582 § 1, 1993)

7.04.030 Election of officers—Term.

The metropolitan beer permit board shall organize by the election of a chairman and a vice-chairman, who shall serve for a period of one year or until a successor shall have been chosen. (Prior code § 5-1-3)

7.04.040 Meetings—Quorum required— Minutes and transcript.

A. The metropolitan beer permit board shall hold two regular meetings each month at a time fixed by the board, and may hold such special meetings as may be necessary.

B. The attendance of at least a majority of the members of the board shall be required to constitute a quorum for the purpose of transacting business.

C. Minutes shall be kept of the meetings in permanent form and a record shall be kept of the action of the board

with respect to every application for a permit. The concurring vote of a majority of the quorum shall be necessary to the granting and revoking of permits, or any other action by the board.

D. No transcript of the proceedings had before the board shall be in any form other than narrative, unless the board shall have been requested to provide for an exact copy of the testimony by an interested party at least twenty-four hours prior to a board meeting. The cost of an exact copy shall be borne by the person requesting the same. (Ord. 99-1794 § 1, 1999; prior code § 5-1-4)

7.04.050 Powers and duties.

A. The metropolitan beer permit board shall have jurisdiction of the licensing, regulating and controlling of the transportation, storage, sale, distribution, possession, receipt and/or manufacture of beer of an alcoholic content of not more than five percent by weight or any other beverage of like alcoholic content, and shall constitute the sole administrative agency in the metropolitan government for the administration of all laws and ordinances relating to beer and like alcoholic beverages.

B. The metropolitan beer permit board may promulgate such bylaws, rules and regulations not inconsistent with state law, the Charter, or any ordinance, as it deems appropriate for the conducting of its business, copies of which shall be filed with the secretary of the board, and with the metropolitan clerk. (Prior code § 5-1-5)

7.04.060 Metropolitan beer permit inspectors—Authority.

The metropolitan beer permit board, subject to the civil service provisions of the Charter, is empowered to employ suitable persons as metropolitan beer permit inspectors. Such board shall prescribe the duties of such inspectors so as to enforce the applicable provisions of this title. (Prior code § 5-1-6)

Chapter 7.08

BEER AND ALCOHOLIC BEVERAGES OF LESS THAN FIVE PERCENT

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7.08.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Authorized wholesaler” means a wholesaler holding a valid wholesale permit issued by the metropolitan beer permit board.

“Beer” means beer, ale or any other beverage having an alcoholic content of not more than five percent by weight.

“Caterer” means a business engaged in offering food and beverage service for a fee at various locations, which (1) operates a permanent catering hall on an exclusive basis; (2) has a complete and adequate commercial kitchen

facility; and (3) is licensed as a caterer by the Tennessee Department of Health.

“Church” means a building or property where a congregation regularly meets at least one day per week for religious worship.

“Metropolitan beer permit board” or “board” means that administrative body organized and empowered under the authority of Tennessee Code Annotated, Title 57, Chapter 5 and created by Section 7.04.010 of this code.

“Minor” with respect to purchasing, consuming or possessing beer means any person who has not attained the age of twenty-one years.

“Park” means a place or property either owned or maintained by the metropolitan government or by a utility district or an incorporated city, where persons regularly gather for recreational purposes or as spectators; provided, however, that such places or property shall not include those places and properties in the core commercial district (CC) and core commercial frame district (CF) as defined in Title 17 of this code; provided, further, that such places or property shall not include parks within the boundary described herein as: beginning at the point of the intersection of Interstate 40 and Herman Street, then East to the intersection of Herman Street and 9th Ave. North, then north to the intersection of 9th Ave. North and Jefferson Street, then east to the intersection of Jefferson Street and Interstate 65, then south to the intersection of Interstate 65 and Interstate 40, then west to the point of beginning.

“Performing arts facility” means a facility owned by a governmental entity and administered by a not-for-profit corporation which facility is located within the core commercial district (CC) or core commercial frame district (CF) as defined in Title 17 of this code and in which meetings, festivals, live theatrical, musical, and other performances and events are regularly presented.

“Permit” means any permit issued pursuant to this chapter.

“Permittee” means any person to whom any permit has been issued pursuant to this chapter.

“Premises” means a building, portion of a building, or property that is utilized for a particular business enterprise.

“Resident” means any person who at present is living within Davidson County within the intent that his permanent home shall be within such county.

“Retailer” means any person licensed by the metropolitan beer permit board who sells beer for consumption and not for resale.

“Retailer off-sale permit” means a permit issued by the metropolitan beer permit board to a retailer engaged in the sale of beer which is not to be consumed by the purchaser upon the premises of such permittee.

“Retailer on-sale permit” means a permit issued by the metropolitan beer permit board to a retailer engaged in the sale of beer which is to be consumed by the purchaser only upon the premises of such permittee.

“Retailer special events permit” means an on-sale beer permit issued by the metropolitan beer permit board to a retailer engaged in the sale of beer in conjunction with activities which will last for a specified period of time, including, but not limited to, fairs, bazaars, and similar public or private social events.

“School” means an institution, including kindergarten, where regular classes are conducted under the supervision of a teacher or instructor, including schools or colleges where specialized subjects are taught to students of all ages. Such term shall include vocational, medical, law, art, cosmetology, and other institutions where similar special subjects are taught; provided, however, mortuary colleges shall not be included in such term.

“Sell” means and includes taking or receiving an order for, keeping or exposing for sale, delivering for value, keeping for intent to sell and trafficking in beer.

“Wholesale beer permit” means a permit issued by the metropolitan beer permit board to distributors, manufacturers, brewers of any branch of a brewery or manufacturer selling beer solely to retailers.

“Wholesaler” means any person who sells beer to retailers. Such term shall include a distributor, manufacturer, brewer or brewery branch making sales of beer directly to retailers. (Ord. BL2004-498 § 1, 2005; Ord. 2002-984 § 1, 2002; Ord. 99-1794 §§ 2, 7 (part), 1999; Ord. 98-1430 § 2, 1998; Ord. 95-1492 § 1, 1995; prior code § 5-1-7)

Article I. Wholesale and Retail Permits

7.08.020 Required.

No person shall sell beer within the territorial jurisdiction of the metropolitan government without being the holder of a valid annual permit issued by the metropolitan beer permit board. (Prior code § 5-1-14)

7.08.030 Types of permits.

The following types of permits may be issued by the metropolitan beer permit board:

A. A wholesaler’s permit shall be issued to each distributor, manufacturer, brewer or brewery or manufacturer’s branch selling beer only directly to retailers.

B. A retailer’s “off-sale” permit shall be issued to any person engaged in the sale of beer for consumption and not resale where the beer sold is not to be consumed by the purchaser upon or near the premises of such seller.

C. A retailer’s “on-sale” permit shall be issued to any person engaged in the sale of beer where the beer is to be

consumed by the purchaser or his guests upon the premises of the seller. A retailer’s on-sale permit may be issued to regularly conducted hotels or motels and to regularly incorporated clubs and lodges in which places beer may be sold and consumed by the purchaser when a retailer’s on-sale permit has been issued for the premises.

D. A caterer’s permit shall be issued to any person who has obtained a caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to Chapter 4 of Title 57 of the Tennessee Code Annotated, and who is engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the catered event site.

E. A retailer’s special events permit shall be issued to any person engaged in the sale of beer for consumption by the purchaser upon the premises of the seller for a specified period of time, and in conjunction with certain types of activities, including, but not limited to, fairs, bazaars, and similar public or private social events.

F. The board may authorize the executive director of the metropolitan beer permit board to issue temporary permits not to exceed thirty days duration in any of the above categories under such terms and conditions as the board may establish not inconsistent with this title.

G. All permits issued hereunder shall be a mere grant or privilege to carry on the business during the term of the permit subject to all the terms and conditions imposed by the Charter and related laws, applicable provisions of this title, applicable provisions of the Tennessee Code Annotated, and other ordinances of the city relating to these businesses. (Ord. BL2004-498 § 2, 2005; Ord. 99-1794 § 3, 1999; Prior code § 5-1-15)

7.08.040 Application—Requirements and conditions.

A. The owner of any business desiring to sell, distribute, manufacture, or store beer within the metropolitan government area shall file in person with the metropolitan beer permit board a written application, under oath, for a permit. The application shall be filed at least ten days prior to the date of hearing said application. The board may waive this ten-day requirement if it deems it appropriate. No permit shall be issued until the board has approved the written application, which shall contain questions necessary to the determination of whether the applicant has met all laws of this state and all provisions of this code and other ordinances of the metropolitan government then in effect. The form of such application shall be prescribed by the board and approved by the metropolitan department of law.

B. To be eligible for a permit, the applicant shall establish the following:

1. That no beer will be sold except at places where such sale will not cause congestion of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety and morals; provided however, nothing in this subsection shall apply to places of business that are located in the terminal or main building at public airports serviced by commercial airlines with regularly scheduled flights;

2. That no sale shall be made to persons under twenty-one years of age;

3. That no person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent ownership interest in the establishment has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten years; and,

4. That no sale shall be made for on-premise consumption unless the permit so states.

C. An applicant shall disclose the following information in the application:

1. Name of the applicant;

2. Name of the applicant's business;

3. Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this chapter;

4. If beer will be sold at two or more restaurants or other businesses within the same building pursuant to the same permit as provided in Section 7.08.230D, and a description of all such businesses;

5. All persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent ownership interest in the applicant;

6. Identity and address of a representative to receive annual tax notices and any other communication from the board;

7. Whether any person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent ownership interest in the applicant or any person employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten years;

8. Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or both of the foregoing; and,

9. Such other information, relevant and material to the protection of the health, safety and morals of the in-

habitants of the metropolitan government area as may be required by the board, in its discretion.

D. No permittee shall open his premises to the public for the sale of beer until the permittee shall have first filed with the board floor plans and diagrams completely disclosing and designating a physical arrangement of the premises, should the board so require of any applicant.

E. The board shall have the right to issue a beer permit to any person, firm, corporation, syndicate, joint-stock company, or association carrying on any other regular business to store and sell, in connection therewith, such beer.

F. If the holder of a beer permit for either off-premises or on-premises consumption desires to change the permit holder's method of sale, the permit holder shall apply to the board for a new permit.

G. An applicant or permit holder shall amend or supplement the information provided in its application promptly if a change in circumstances affects the responses in its application.

H. Any applicant making any false statement in an application shall forfeit his permit, and shall not be eligible to receive any permit for a period of ten years.

I. Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate, or association. (Ord. BL2003-1497 § 1, 2003; Ord. 99-1794 § 4, 1999)

7.08.050 Application—Submittal to police department before approval.

A. The Metropolitan beer permit board shall submit the necessary information of each applicant for a permit to the police department for the purpose of ascertaining if the applicant has ever been arrested or convicted of any offense which would prohibit the issuance of a permit.

B. Alternatively, the police department may provide the board with computer access to their records revealing the required information and provide assistance so that the board may conduct its own checks. (Ord. 99-1794 § 5, 1999)

7.08.060 Fees—Application, renewal and change in management.

A. All applications for the issuance of permits by the metropolitan beer permit board shall be accompanied by an application fee of two hundred fifty dollars. Said fee shall be used in offsetting the expenses of investigating the applicant and processing the application. No portion of the fee shall be refunded to the applicant whether an application is approved or denied.

B. All permit holders shall pay an annual privilege tax of one hundred dollars to the metropolitan beer permit

board for the privilege of selling beer within the state, pursuant to Tennessee Code Annotated Section 57-5-104(b)(1).

1. Any person, firm, corporation, joint-stock company, syndicate or association engaged in selling, distributing, storing or manufacturing beer shall remit the tax on January 1, 2000, and each successive January 1st to the metropolitan beer permit board.

2. The metropolitan beer permit board shall mail written notice to each permit holder of the payment date of the annual tax at least thirty days prior to January 1st of each year. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31st or within thirty days after written notice of the tax was mailed, whichever is later, then the metropolitan beer permit board shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten days after receiving notice of its delinquency by certified mail, then the permit may be suspended, revoked or the permit holder may be given a civil penalty subject to procedures set forth at Tennessee Code Annotated Section 57-5-108 and Section 7.08.110 of this chapter.

3. The metropolitan government may use these tax funds for any public purpose.

4. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. 99-1794 § 6, 1999)

7.08.070 Conditions of permits.

Every person to whom a beer permit is issued agrees to the following conditions:

A. The premises are declared to be a public place for the purpose of inspection by the beer inspectors, by officers of the police department or by any other duly authorized law enforcement officer.

B. The permit holder shall keep invoices and all other memoranda fully descriptive relating in any way to the storing, sale, distribution by sale or gift or manufacture of beer, and he shall permit the director of finance or his duly authorized agents, representatives or employees to inspect, at any time during the business hours of the day, all such articles, containers, packages, invoices, books, papers and memoranda as may be deemed necessary in the opinion of the director of finance or his authorized agent, representative or employee in ascertaining whether or not all state and local taxes have been paid or in determining the amount of such taxes that may be due.

C. The permit holder shall display all permits issued pursuant to this article in a conspicuous place, together

with all other permits, licenses and stamps required by law.

D. The holder of a retailer's "off-sale" permit shall post, in a prominent place easily seen by customers, a sign supplied by the metropolitan beer permit board that includes the following language:

It is unlawful to possess any alcoholic beverage in an opened glass, aluminum, or metal container on these premises or other area generally open to the public. (Ord. 2003-1476 § 1, 2003; prior code § 5-1-18.1)

7.08.080 Permit to state location where sale is authorized.

The specific address or description of the premises where beer is authorized to be sold shall be stated on the face of each permit issued by the metropolitan beer permit board, and no permit shall be valid unless such address or description of the premises is stated on the face of such permit. (Prior code § 5-1-21)

7.08.090 Location restrictions—Issuance of permit after revocation.

A. 1. No beer permit shall be issued to an applicant whose location is less than one hundred feet from a church, a school or its playground, a park, a licensed day care center or nursery school or their playgrounds, or a dwelling for one or two families. One- or two-family dwellings shall not be construed to include house trailers, on wheels or otherwise, provided that minimum distance requirements contained herein from a dwelling for one or two families shall not be applicable to any location which is in the CC or CF zone district, unless said location is adjacent to a lot in a residential zone district. This subsection shall not affect any location for which a beer permit was in effect within three hundred sixty-five days of May 26, 1992, the effective date of the ordinance codified in this subsection A and, further, shall not affect said location thereafter so long as a beer permit is held for that location without lapse of more than three hundred sixty-five days, even if there is a change of ownership of the location or the business thereon. Provided, however, the foregoing to the contrary notwithstanding, the distance requirements contained herein shall be applied to any location which has been granted a beer permit after January 1, 1992, that was not subject to a minimum distance requirement. Provided, however, the distance requirements provided herein shall not be applicable to a retailer on-sale beer permit for any location that is on a lot in the MUL district under the provisions of Title 17 of the Metropolitan Code of Laws so long as (a) a retailer on-sale beer permit is obtained prior to April 30, 2003; (b) more than fifty percent of the gross sales of said applicant for said location is derived from

food sales, excluding sales of alcoholic beverages; and (c) thereafter said permit is held without lapse of more than three hundred sixty-five days, regardless of any change of ownership. Provided, however, the minimum distance requirements established herein shall not be applicable to any retailer on-sale beer permit issued to any metropolitan arena. No retailer off-sale beer permit may be issued to any metropolitan arena which does not comply with the minimum distance requirement set forth above. For purposes of this section, "metropolitan arena" means a facility owned, operated or leased by a metropolitan government or any agency or commission thereof, or by a nongovernmental individual, corporation, partnership or other legal entity, with permanent seating capacity in excess of nine thousand persons, which is located in a core commercial (CC) zone district or a core commercial frame (CF) zone district established pursuant to Title 17, which is designed primarily for indoor sporting, recreational, convention and/or entertainment use and may contain space and facilities for meetings, exhibitions, retail sales, retail food dispensing and restaurants and is a facility for which a license has been obtained from the Tennessee Alcoholic Beverage Commission permitting the sale of alcoholic beverages for on-premises consumption. All premises which are permitted under these provisions which are arenas for entertainment and sporting events shall provide designated seating which shall be "alcohol free" in the facility for events when beer or other alcoholic beverages are sold. Provided, however, the distance requirements provided herein shall not be applicable to a catered event by the holder of valid caterer's permit issued pursuant to this chapter.

2. Any metropolitan arena which has a retailer on-sale beer permit issued under the provisions of Section 7.08.090(A)(1) shall be subject to the following provisions and restrictions:

- a. For any public event conducted in such metropolitan arena which shall have an attendance of two thousand five hundred or more persons shall file with the metropolitan beer board, prior to such event, a detailed plan which provides for the following:
 - i. The number of persons selling or distributing beer,
 - ii. Locations and numbers of security personnel used to monitor the distribution and consumption of beer,
 - iii. Locations and number of police officers to be present,
 - iv. Methods of controlling amount of alcoholic beverages to be sold to individuals,
 - v. Times during the event that the sale of beer and other alcoholic beverages will begin and terminate, and
 - vi. Indication of method under which the plan was developed (i.e., past history of similar events, research of similar events conducted at other locations, etc.);

- b. For any public event conducted in such metropolitan arena which shall have an attendance of two thousand five hundred or more persons and beer and/or other alcoholic beverages are to be sold, there shall be an area provided within the premises to house individuals who are unruly. Such area shall be separated from the activities of said event and shall be so located to properly protect the safety of persons to be detained as well as the general public;

- c. The sale or consumption of beer shall not be permitted at any event open to the public by ticket sales or otherwise which is primarily conducted for the attendance of minors or children;

- d. The permit holder shall provide the metropolitan beer board satisfactory evidence that all persons selling or distributing beer or other alcoholic beverages under said permit shall have completed a program of effective alcohol management such as T.E.A.M. (Techniques of Effective Alcohol Management), ASK (Alcohol Servers Knowledge program), or other such program as required by the Alcoholic Beverage Commission of the state of Tennessee;

- e. Provided, however, no retailer off-sale beer permit or special permit may be issued under the provisions of ordinance codified in this section which does not comply with the minimum distances and other requirements as otherwise required.

3. Distances shall be measured in a straight line from the closest point of the applicant's building to the closest point of the building of the church or dwelling; from the closest point of the applicant's building to the closest boundary of a park; from the closest point of the applicant's building to the closest boundary of a public school of the board of public education of the metropolitan government; and from the closest point of the applicant's building to the closest point of the building of a school, licensed day care center or nursery school, or to the closest boundary of the playground of the school, day care center or nursery school, whichever is closest to the applicant's building.

B. No permit shall be issued to any person for a location which fails to comply with any health ordinances or any regulation of the department of health or which would violate any zoning ordinance of the metropolitan government.

C. Where a beer permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises to the same business enterprise or its employees operating the premises until after the expiration of one year from the date such revocation becomes final and effective; provided, however, said premises shall be eligible for the issuance of a new beer permit to a business enterprise or its employees, an owner and/or lessee who was not

subject to the revocation of a beer permit at such location provided all requirements of the code regarding the location of on-sale and/or off-sale beer permits shall be met. However, a permit shall not be issued to a partner, employee, associate or relative of the holder of a revoked permit if said relationship existed at the time of the offense.

D. No permit shall be issued where the applicant has had revoked, within ten years, either a permit issued for the sale of beer by any board duly created within the county or municipality of this state or any license for the sale of liquor in any form by the alcoholic beverage commission of this state.

E. Notwithstanding any other provision of this section to the contrary, any restaurant located on property subject to a commercial planned unit development (PUD) under the provisions of Title 17 that possesses a valid license issued by the state alcoholic beverage commission for sale and consumption of wine or other alcoholic beverages on the premises shall be exempt from the minimum distance requirements set forth in subsection A of this section. Should a restaurant permit holder that is exempted from the distance requirements pursuant to this subsection cease to hold a valid license issued by the state alcoholic beverage commission for sale and consumption of wine or other alcoholic beverages on the premises, any permit for the sale of beer shall be automatically deemed revoked by the board and the applicant shall be required to reapply for the permit without being exempted from any distance requirements. For the purposes of this subsection, "restaurant" is defined as provided in Tennessee Code Annotated Section 57-4-102 effective as of the date of the adoption of this subsection. (Ord. BL2004-498 § 3, 2005; Ord. BL2003-1353 § 1, 2003; Ord. BL2002-1162 § 1, 2002; Ord. BL2000-442 § 1, 2000; Ord. BL2000-405 § 1, 2000; Ord. BL99-118 § 1, 2000; Ord. 99-1794 § 7 (part), 1999; Ord. 98-1325 § 1, 1998; Ord. 97-924 § 1, 1997; Amdts. 1, 2, 3, 4 to Ord. 94-1315, 6/6/95; Ord. 95-1315 § 1, 1995; Ord. 92-448 § 1, 1992; Ord. 92-434 § 1, 1992; Ord. 92-406 § 1, 1992; Amdt. 2 to Ord. 92-246, 4/21/92; Amdt. 1 to Ord. 92-246, 4/21/92; Ord. 92-246 § 2, 1992; Amdt. 1 to Ord. 91-1552, 4/22/91; Ord. 91-1552 § 1, 1991; Ord. 90-1435 § 1, 1990; Amdt. 1 to Ord. 89-1033, 12/5/89; Ord. 89-1033 §§ 1, 2, 1989; prior code § 5-1-18.2)

7.08.100 Retailer on-sale beer permit— Issuance requirements.

Retailer on-sale beer permits shall not be issued except to performing arts facilities or to eating establishments where such eating establishments possess seating capacities for not less than twenty-five persons and where meals or lunches are regularly served and except to places where

the premises are equipped with adequate toilet facilities and handwashing facilities, including hot and cold running water, for use by customers. Establishments selling beer for on-premises consumption shall be constructed of such material that the floors, walls and ceilings can be easily cleaned and kept clean. (Ord. 2002-984 § 2, 2002; Ord. 99-1794 § 7 (part), 1999; prior code § 5-1-18.3)

7.08.105 Caterer's permit—Issuance and notice requirements—Location restrictions.

In addition to the other requirements of this chapter:

A. No caterer's permit shall be issued to a person who does not hold a valid caterer license from the state alcoholic beverage commission for sale and consumption of wine and other alcoholic beverages pursuant to Chapter 4 of Title 57 of the Tennessee Code Annotated. Should the holder of a caterer's permit cease to hold a valid caterer license from the state alcoholic beverage commission, such caterer's permit shall be automatically deemed revoked by the board.

B. No caterer's permit shall be issued to a person who does not hold a valid retailer's "on-sale" permit for its permanent catering hall issued pursuant to the provisions and requirements of this chapter, including the location restrictions specified in Section 7.08.090.

C. All caterer's permit holders shall be required to give advanced notice to the board of each site for which beer will be sold and consumed. Such notice shall include, but not be limited to, the date, time, and location of the event.

D. No caterer's permit shall be valid for the sale and consumption of beer on any premises for which a retailer's "on-sale" permit has been revoked within the past twelve-month period, nor shall a caterer's permit be used for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent ownership interest in the establishment that has had a retailer's "on-sale" permit revoked within the past twelve-month period.

E. No caterer's permit shall be valid for the sale and consumption of beer on any premises within one hundred feet from a church or a school or its playground, unless the catered event is sponsored and held by the church or private school for the benefit of said church or school. (Amdt. 1 with Ord. BL2004-498 § 4, 2005)

7.08.110 Suspension and revocation of permit—Authority.

The metropolitan beer permit board shall have the power to revoke or suspend, and shall be charged with the

duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this code or any other ordinance of the metropolitan government or of any private act, county court resolution or city of Nashville ordinance which has the effect of an ordinance of the metropolitan government regulating beer or other intoxicating beverage, or when the permittee:

- A. Operates a disorderly place;
- B. Permits boisterous or disorderly conduct on the premises;
- C. Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude;
- D. Permits minors to congregate about the premises;
- E. Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business on the same premises, unless he shall notify the board in writing immediately upon such sale or transfer, and shall surrender his license within thirty days after said sale or transfer;
- F. Has made a false statement of a material fact in any application or notice to the board;
- G. Sells or allows to be sold on the premises of the permittee any beer to any person under the age of twenty-one years; or
- H. Sells or allows to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer. (Ord. 99-1794 §§ 8 (part), 9, 1999; prior code § 5-1-23)

7.08.120 Draft beer defined—Off-premises consumption sales.

- A. Draft beer may be sold for off-premises consumption only by the holder of an off-sale beer permit.
- B. “Draft beer,” as defined in this section, means beer which is poured from a pressurized container or keg into a container approved by the state of Tennessee, which is then commercially sealed. The process of pouring the beer into the container and commercially sealing same shall take place on the premises of the retailer in an area separate from the area which the public may use. (Ord. 99-1794 §§ 7 (part), 8 (part), 1999; prior code § 5-1-15.1)

7.08.130 Prohibited acts—Generally.

It is unlawful for any person:

- A. To bring, to cause, or allow to be brought onto the premises of any permittee under the provisions of this chapter any prohibited drugs within the meaning of Ten-

nessee Code Annotated, Sections 53-10-101, et seq., and 39-17-401, et seq.,

- B. To bring, to cause, or allow to be brought onto the premises of any permittee under the provisions of this chapter any intoxicating beverage, the alcoholic content of which is in excess of five percent by weight, unless such permittee is the holder of a valid license issued under the authority of Tennessee Code Annotated, Title 57, Chapter 4;

- C. Being under the age of twenty-one years, to have in his or her possession beer for any purpose, except that any person eighteen years of age or older may transport, possess, sell or dispense alcoholic beverages, wine or beer in the course of his or her employment. (Ord. 99-1794 §§ 8 (part), 10, 1999)

7.08.140 Prohibited acts—By permit holders, agents or employees.

It is unlawful for any beer permit holder or his agent or employee:

- A. To employ any person convicted for the possession, sale, manufacturing or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten years;
- B. To make or permit to be made any sale of beer to a person under twenty-one years of age;
- C. To sell, give away, or allow beer to be consumed on any premises granted a permit under this chapter from three a.m. to six a.m. on weekdays and from three a.m. to twelve noon on Sundays;
- D. To allow any person under eighteen years of age to loiter or congregate about the premises. The burden of ascertaining the age of minor persons shall be on the permit holder and his agent or employee. When a minor is seated at a table, there shall be no beer served at the table unless such minor is accompanied by one or both of his parents, but only if served in conjunction with food;
- E. To make false statement of a material fact in his application for any beer permit;
- F. To operate a disorderly place;
- G. To knowingly allow beer to be passed from a lawful purchaser or possessor to a minor for consumption on the premises of the permit holder. The burden of ascertaining the age of persons who may not lawfully possess beer shall be on the permit holder and his agent or employee;
- H. For a retailer to knowingly sell to a lawful purchaser who purchases beer for consumption by a minor. The burden of ascertaining the age of persons who may lawfully possess beer shall be on the permit holder and his agent or employee;
- I. To permit boisterous or disorderly conduct on the premises;

J. To sell or transfer the equipment or assets of the business authorized by his permit to another for the purpose of continuing the business on the same premises, unless he shall notify the board in writing immediately upon such sale or transfer, and unless he shall give the name and address of the purchaser within said notice. A beer permit holder shall surrender his license to the board within thirty days after the sale or transfer is consummated;

K. Make or allow any sale to any intoxicated person or to any feeble-minded, insane or otherwise mentally incapacitated person;

L. Allow any intoxicated person to loiter on or about his premises;

M. Allow any dancing on his premises without a dance permit;

N. For any wholesaler or manufacturer, to sell or deliver beer, or use, operate or cause to be operated any vehicle carrying beer within the metropolitan government area after eleven p.m. or before four a.m., Monday through Friday, or at any time between nine p.m. on Friday and six a.m. on Monday. This provision shall also apply to platform sales in addition to ordinary deliveries. This subsection shall not apply, however, to trucks returning to the warehouse or to or from a point for the purpose of vehicle repair and further, this subsection shall not apply to trucks transporting beer for delivery outside of the area of metropolitan government;

O. For a retailer or wholesaler, to store beer in any place other than the address listed on the permit;

P. To sell or allow to be sold on the premises of the permittee beer to any person using food stamps issued pursuant to state or federal law for the purchase of such beer;

Q. To allow gambling or gambling devices of any kind or description contrary to state law on the premises;

R. To allow solicitation for purposes of prostitution on the premises;

S. To allow or engage in any criminal activity on the premises. (Amdt. 1 with Ord. 2003-1363 § 1, 2003; Ord. 99-1794 §§ 8 (part), 11, 1999; Ord. 93-669 §§ 1, 2, 1993; Amdt. 1 to Ord. 91-2, 10/15/91; Ord. 91-2 § 1, 1991; prior code § 5-1-23.3)

7.08.150 Suspension and revocation of permit—Civil penalty options.

A. The metropolitan beer permit board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars for any

other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty shall constitute an admission of the violation(s) charged.

B. Revocation, suspension or imposition of a civil penalty may be made where it appears satisfactorily that the premises of any person, firm or corporation holding a beer permit under this chapter are being operated in such manner as to be detrimental to public health, safety and morals.

C. The action of the board in connection with the issuance of any order revoking or suspending a beer permit or imposition of a civil penalty may be reviewed by statutory writ of certiorari, with a trial de novo as a substitute for an appeal, the petition of certiorari to be addressed to the circuit or chancery court of Davidson County. The procedures in Tennessee Code Annotated Section 57-5-108 are the sole method for review of decisions under this section, as they may be amended.

D. Where a permit is revoked, no new license shall be issued to permit sale of beer on the same premises until the expiration of one year from the date the revocation becomes final and effective. The board may, in its discretion, determine that issuance of a license or permit before the expiration of one year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession, or, if any new owner is not in any way associated with the owner whose permit was revoked.

E. The board may revoke or suspend a permit or impose a civil penalty on any beer retailer who is found to possess beer on which the state beer barrelage tax and the county wholesale beer tax has not been paid. The burden of proof shall be on the permit holder to show the taxes on the beer have been paid by showing that the beer was purchased from a Tennessee beer wholesaler by providing a bill of sale or invoice showing name and address of the retailer and wholesaler and the number of containers of each brand purchased, and which shall be signed by the retailer. (Ord. 99-1794 § 12, 1999)

Article II. General Regulations

7.08.160 Permitted activities.

It is lawful to transport, store, sell, distribute, possess, receive and manufacture beer, as defined in Section 7.08.010, within the geographical area of the metropolitan

government, subject to all regulations, limitations and restrictions provided in this title. (Ord. 99-1794 § 8 (part), 1999; prior code § 5-1-8)

7.08.170 Restrictions on sales by wholesalers.

It is unlawful for any authorized wholesaler to sell beer to anyone other than a person, firm, corporation, syndicate or association having been authorized and licensed by any city or county as a retailer by a board duly created for the purpose of licensing retail establishments. Provided, however, if a retail business has posted a beer permit, which on its face appears to be valid, a wholesaler who sells beer to the retail business will not be deemed to have violated the provisions of this section. (Amdt. 1 with Ord. 99-1794 §§ 8 (part), 17, 1999; prior code § 5-1-9)

7.08.180 Limitations on purchases.

No person, except an authorized wholesaler, may sell or store beer within the metropolitan government area unless such beer has been purchased from an authorized wholesaler. (Ord. 99-1794 § 8 (part), 1999; prior code § 5-1-10)

7.08.190 Retail sales and storage—Permit location only.

Retailers holding permits to sell beer are authorized to sell and store beer at only the location authorized by the metropolitan beer permit board and specifically designated on their respective permits as the place for which the permit is issued. The sale or storage of beer by a retailer at any place other than the location authorized by the board and specifically named on the face of his permit is prohibited. (Ord. 99-1794 § 8 (part), 1999; prior code § 5-1-12)

7.08.200 Retail purchases and deliveries—Permit location only.

A. Retailers holding permits from the metropolitan beer permit board are only authorized to deliver beer on the premises for which the permit is issued. The delivery of beer by a retail permit holder at any place other than the premises for which his permit is issued is prohibited. No retail permit holder shall enter into any agreement with any person or conspire with any person to cause beer to be delivered off of the premises for which his permit is issued or at any location other than the one authorized by his permit for the sale of beer.

B. It shall be unlawful for any holder of a retail beer permit to knowingly permit the purchase of beer at his place of business by anyone for resale and delivery to another. Holders of retail beer permits issued by the board are prohibited from selling beer to any person when the retail permit holder knows or should have reason to know that such beer is purchased for resale and delivery off of

the premises for which his permit is issued. (Ord. 99-1794 § 8 (part), 1999; prior code § 5-1-13)

7.08.210 Resale prohibited when.

It is unlawful for any retailer holding a permit issued by the metropolitan beer permit board to purchase, accept as a gift or loan, or to receive, swap or exchange, beer, for the purpose of resale, from any person who is not the holder of a valid wholesale permit issued by the board. (Ord. 99-1794 § 8 (part), 1999; prior code § 5-1-11)

7.08.220 Return of beer permit upon termination of business.

A permit holder must return his permit to the board within fifteen days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided that, regardless of the failure to return a beer permit, a permit shall expire upon termination of the business, change in ownership, relocation of the business or change of the business's name. (Ord. 99-1794 §§ 8 (part), 13, 1999)

7.08.230 Valid permit—Limitations.

A permit shall be valid:

A. Only for a single location, except as provided in subsections D and F of this section, and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business. However, a permit holder for a business that is subject to the distance requirements set forth in this chapter, at Section 7.08.090, may not sell beer at a deck, patio and/or other outdoor serving area that is built after the date of the issuance of the permit.

B. Only for a business operating under the name identified in the application.

C. Only for the owner to whom the permit is issued and cannot be transferred to another owner. Should the ownership of a location change, the new owner shall apply for a new permit in accordance with Article I of Chapter 7.08. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent of the stock of the corporation is transferred to a new owner.

D. Where an owner operates two or more restaurants or other businesses within the same building, the owner may at the owner's discretion operate some or all such businesses pursuant to the same permit.

E. A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one permit.

F. A caterer's permit is valid for each catering site, provided that the notice requirements of Section 7.08.105 are met. (Ord. BL2004-498 § 5, 2005; Ord. 99-1794 § 14, 1999)

7.08.240 Hotels and motels.

A. Any hotel or motel licensed under this chapter may dispense beer to adult guests through locked, in-room units.

B. No minor shall be issued or supplied with a key by any hotel or motel for these units. (Ord. 99-1794 § 15, 1999)

Division II. Urban Services District

Chapter 7.12

ALCOHOLIC BEVERAGE WHOLESALERS

Sections:

- 7.12.010 Definitions.**
- 7.12.020 Fee imposed—Rate—How measured.**
- 7.12.030 Collection of fees.**
- 7.12.040 Remittance of fees—Reports required—Penalty—Reimbursement.**
- 7.12.050 Disposition of fees—Purpose—Fund credited.**
- 7.12.060 Disposition of fees—Payment agreements—Authorization.**
- 7.12.070 Applicability of chapter.**

7.12.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Alcoholic beverage” or “alcoholic beverages” shall be as defined in Section 57-3-501, et seq. of Tennessee Code Annotated, but such term shall not be construed to include beer or other beverages of alcoholic content of less than five percent by weight, as defined by Title 57, Chapter 3, Part 5 of Tennessee Code Annotated.

“Retailer” means a person who sells alcoholic beverages or wine for consumption and not for resale.

“Wholesaler” means a person who sells alcoholic beverages or wine to retailers. Such term shall include distributors, distillers or any person making sales to retailers.

“Wholesale sale” or “sale at wholesale” means a sale to any person for the purposes of resale.

“Wine” shall be as defined by Section 57-3-501, et seq. of Tennessee Code Annotated. (Ord. 90-1339 § 1 (5-4), 1990; prior code § 5-1-24)

7.12.020 Fee imposed—Rate—How measured.

For the purpose of providing a means of regulating the liquor business in the metropolitan government area, there is levied and imposed upon licensed retailers of alcoholic beverages a regulatory, supervisory and inspection fee at the rate of five percent upon all sales of alcoholic beverages or wine made by a wholesaler to a licensed retailer. The fee shall be measured by the wholesale price of the alcoholic beverage or wine sold by the wholesaler and paid by the retailer to the wholesaler and shall be five percent of such wholesale price. (Prior code § 5-1-25)

7.12.030 Collection of fees.

The inspection fee imposed by this chapter shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages. (Prior code § 5-1-26)

7.12.040 Remittance of fees—Reports required—Penalty—Reimbursement.

A. The supervisory, regulatory and inspection fees imposed by this chapter shall be remitted each month by all wholesalers to the county clerk, payable to the metropolitan government, not later than the twentieth day of the month following which the sales were made.

B. Every wholesaler shall file with the county clerk each month, at the time of making such remittance, a monthly report, in duplicate, containing a list of the alcoholic beverages sold to each retailer located within the metropolitan government area, the wholesale price of the alcoholic beverage sold to each retailer, the amount of tax due, and such other information as may be required by the county clerk.

C. The failure to collect or timely report or pay the inspection fee collected shall result in a penalty of ten percent of the fee due the metropolitan government. Such penalty is in addition to the other penalties prescribed in this code.

D. Wholesalers collecting and remitting the above inspection fee to the metropolitan government shall retain, in each remittance made to the metropolitan government as provided herein, an amount equal to five percent of the total amount of inspection fees collected and remitted as compensation for collecting and reporting the fees imposed herein. Such reimbursement shall be deducted and shown on the monthly report to the county clerk. (Ord. 96-166 § 3, 1996; prior code § 5-1-27)

7.12.050 Disposition of fees—Purpose—Fund credited.

In order to promote the regulation, enforcement and supervision of the alcoholic beverage industry, and tend to prevent the violation of the liquor laws of the metropolitan government, the director of finance shall deposit all money collected pursuant to this chapter for credit to the general services district general fund, to be used for law enforcement purposes. (Prior code § 5-1-30)

7.12.060 Disposition of fees—Payment agreements—Authorization.

The mayor is authorized to enter into and execute agreements by and between the metropolitan government and other municipalities within Davidson County as re-

gards the collections made by the metropolitan government of the five percent inspection fee imposed by Section 7.12.020, whereby the fee collected by the metropolitan government on sales made to retailers in said municipalities shall be disbursed to them by the metropolitan government. (Prior code § 5-1-30.1)

7.12.070 Applicability of chapter.

This chapter shall be effective in the general services district. (Prior code § 5-1-31)

Chapter 7.16

ALCOHOLIC BEVERAGE REGULATIONS

Sections:

Article I. General Regulations

- 7.16.010 Definitions.**
- 7.16.020 Interpretation and application of chapter provisions.**
- 7.16.030 Locations where sales permitted.**
- 7.16.040 Sales beyond permitted limits prohibited when.**
- 7.16.050 Premises—Ground floor, entrances and exits.**
- 7.16.060 Premises—Visibility of interior.**
- 7.16.070 Mayor—Powers and duties.**
- 7.16.080 Enforcement of chapter provisions—Authority.**

Article II. Certificate of Compliance

- 7.16.090 Application—Publication of notice.**
- 7.16.100 Prohibited for premises outside lawful area.**
- 7.16.110 Location restrictions.**
- 7.16.120 Residency and stock ownership requirements.**
- 7.16.130 Fee payment restrictions.**
- 7.16.140 Issuance authority.**
- 7.16.150 Effect of conviction of violating alcoholic beverage laws.**
- 7.16.160 Expiration of permit.**
- 7.16.170 Nontransferable—Temporary agents authorized when.**
- 7.16.180 Premises removal, relocation, transfer conditions.**
- 7.16.190 Effect of felony conviction involving moral turpitude.**

Article I. General Regulations

7.16.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Alcoholic beverage” or “beverage” means alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine, beer or wine, where the latter two contain an alcoholic content of five percent by weight, or less.

“Applicant” means a person, partnership or corporation applying for a certificate of compliance for a proposed retail liquor license.

“Certificate of compliance” means a certificate signed by the mayor certifying:

1. That the applicant(s) for a retail liquor license before the alcoholic beverage commission who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of application; and further, that in the official’s opinion, the applicant will not violate any of the provisions of this title;

2. That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the city or county, and that the applicant or applicants meet all residency requirements, if any, established by such local authority; and

3. That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

“License” means a license issued by the alcoholic beverage commission for the retail sale of alcoholic spirituous beverages to patrons or customers in sealed packages only, not for consumption on the premises.

“Licensee” means any person to whom a license has been issued by the alcoholic beverage commission.

“Retailer” means any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter.

“Retail sale” or “sale at retail” means a sale to any person for any purpose other than for resale or for consumption on the premises of the retailer.

“Wholesaler” means any person who sells at wholesale any beverage for the sale of which a license is required by the alcoholic beverage commission.

“Wholesale sale” or “sale at wholesale” means a sale to any person for purposes of resale.

“Wine” means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent by volume. No other product shall be called “wine” unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine. (Ord. 90-1339 § 1 (5-8), 1990; prior code § 5-2-1)

7.16.020 Interpretation and application of chapter provisions.

A. It is unlawful to store, transport, sell, distribute, possess and receive alcoholic beverages in the city within the area set out and defined in Sections 7.16.030 and 7.16.110, subject to the payment of taxes, limitations, regulations and conditions herein provided for.

B. Nothing in this chapter is intended to relate to the transportation, storage, sale, distribution, possession, receipt of, or tax upon any beverage of alcoholic content of five percent by weight or less, and no ordinance relating thereto shall be considered or construed as modified by this chapter. (Ord. 90-1339 § 1 (5-9), 1990; prior code § 5-2-2)

7.16.030 Locations where sales permitted.

A. Liquor may be sold at retail locations, provided they meet the following criteria:

1. The proposed location is within the urban services district;
2. The proposed location is on or has its principal access to an existing major street or road as shown on the major street plan as adopted by the metropolitan planning commission;
3. The proposed location is within major commercial concentrations having a land area of ten or more contiguous commercially developed acres. Commercial development separated by a public street or alley shall be considered contiguous.

B. The mayor may submit such proposed locations to the metropolitan department of planning for an opinion as to whether the three criteria set out in subsection A have been met.

C. Notwithstanding any provision of subsection A or B to the contrary, those premises which held a valid cer-

tificate of compliance and license to sell liquor at retail on October 5, 1990, when Metropolitan Ordinance 90-1339 became effective, and which front and abut upon either side of the following streets, roads or avenues, shall continue to be locations where the retail sale of liquor is permitted:

1. Jo Johnston Avenue beginning at the westerly-most intersection of Jo Johnston Avenue and Tenth Circle, North; thence westerly along Jo Johnston Avenue to the easterly-most intersection of Jo Johnston Avenue and Fourteenth Avenue North, including both sides of the street;
2. Buchanan Street beginning at the westerly-most intersection of Buchanan Street and Third Avenue, North; thence westerly along Buchanan Street to the easterly-most intersection of Buchanan Street and Eighteenth Avenue, North including both sides of the street.
3. Stewart’s Ferry Pike between Lauer Drive and Hickory Bend Drive.
4. McGavock Pike between Briley Parkway and Riverview Drive.

D. Provided, if a certificate of compliance or license to sell liquor at retail for the location described in subsection C shall lapse for a period of one year, the retail sale of liquor shall no longer be permitted at such location. (Ord. BL2001-687 § 1, 2001; Ord. BL2000-320 § 1, 2000; Ord. 92-338 § 1, 1992; Ord. 90-1339 § 1 (5-10), 1990; prior code 5-2-3)

7.16.040 Sales beyond permitted limits prohibited when.

It shall be unlawful for any person to sell at retail any alcoholic beverages beyond the limits of the area defined in Section 7.16.030, at any location or place therein where a retail liquor license, as presently issued, has been revoked, abandoned, surrendered or transferred by lease, or where the owner thereof has prior to the expiration of such license failed to apply for a renewal of the same. (Prior code § 5-2-4)

7.16.050 Premises—Ground floor, entrances and exits.

No wholesaler or retailer shall be located except on the ground floor and shall have one main entrance opening on a public street. Such place of business shall have no other entrance for use by the public, except as hereafter provided. When a wholesale or retail store is located on the corner of two public streets, such wholesale or retail store may maintain a door opening on each of the public streets; provided, that any salesroom adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby, so long as same shall be open to the public. Every wholesale and retail store shall be provided with

whatever entrances and exits may be required by existing or future provisions of this code or other ordinances. (Prior code § 5-2-17)

7.16.060 Premises—Visibility of interior.

It is the policy of this chapter that to the fullest extent, consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway of the interior of the place of sale or dispensing of alcoholic beverages sold or dispensed therein. (Prior code § 5-2-7)

7.16.070 Mayor—Powers and duties.

The mayor shall have authority, by and with the consent of the metropolitan council, to employ additional necessary clerical help, whose compensation shall be paid out of the funds or receipts collected under the municipal inspection fee under Metropolitan Code Section 7.12.020. The mayor shall enforce and administer the provisions of this chapter. He shall have and exercise the following functions, duties and powers:

A. If, upon investigation, the mayor finds that the applicant for a certificate of compliance has concealed or misrepresented in writing, or otherwise, any material fact or circumstance concerning the operation of the business or employment, or if the interest of the applicant in the operation of the business or employment is not truly stated in the application or in case of any fraud or false swearing by the applicant touching any matter relating to the operation of the business or employment, the mayor shall refuse to cause the certificate of compliance to be issued. If such certificate of compliance has been issued, the mayor shall request the alcoholic beverage commission to hold a hearing to determine whether such license should be revoked. All data, written statement, affidavit, evidence or other documents submitted in support of an application shall be deemed to be a part of the application.

B. The mayor shall have the right:

1. To summon any applicant for a license or permit and also to summon and examine witnesses and to administer oaths to such applicants and witnesses in making any investigation in regard thereto;

2. To prescribe all forms of applications, and of all reports and all other papers and documents required to be used under or in the enforcement of this chapter;

3. To prevent parts of the premises connected with or in any sense used in connection with the premises whereon the possession, transportation, delivery, receipt, sale or purchase of alcoholic beverages, may be lawful, from being used as a subterfuge or means of evading the provisions of this chapter or the rules and regulations of the alcoholic beverage commission;

4. To require, on licensed premises, the destruction or removal of all bottles, whether empty or otherwise, cases, containers, apparatus or devices, used or likely to be used, or designed or intended or employed in evading, violating or preventing the enforcement of this chapter or the rules or regulations of the alcoholic beverage commission. (Ord. 90-1339 § 1 (5-11), 1990; prior code § 5-2-5)

7.16.080 Enforcement of chapter provisions—Authority.

In order to carry out the provisions of this chapter, the mayor is authorized to call upon any employee in the department of finance, as well as upon any member of the police department, to assist in the enforcement of the provisions of this chapter. (Prior code § 5-2-6)

Article II. Certificates of Compliance

7.16.090 Application—Publication of notice.

A. All persons desiring to engage in the sale of spirituous liquors or vinous liquors at retail in sealed packages only and not for consumption on the premises shall give notice of the purpose of making such application by advertising one time in a daily paper published in the metropolitan government area, having general circulation among the citizens of the metropolitan government area, which notice shall contain a particular description of the location of the proposed liquor business, the name of the applicant, and if a partnership the names of the partners.

B. The applicant shall make written application to the mayor for such privilege upon forms to be prepared and approved by the mayor, which application shall give the name and address of the applicant, place where the proposed business is to be located, nature and character of the business to be carried on, and, if a partnership, the names of the partners and such other information as may be required by the mayor.

C. The application shall be sworn to, and when filed with the mayor, shall be investigated and shall not be acted upon by the mayor until ten days after the filing of the application. The running of the notice in the newspapers may be concurrently made at the time the application for certificate of compliance is filed. If advertisement be not made before the filing of the application, the application shall state that the advertisement is being made. The advertisements shall be made in the daily newspaper in which legal advertisements of the metropolitan government are carried. (Prior code § 5-2-46)

7.16.100 Prohibited for premises outside lawful area.

No certificate of compliance shall be granted entitling the applicant to apply for a license from the alcoholic beverage commission to sell an alcoholic spirituous beverage at retail in respect to premises situated outside of the area defined in Section 7.16.030. (Ord. 90-1339 § 1 (5-14), 1990; prior code § 5-2-38)

7.16.110 Location restrictions.

A. No certificate of compliance shall be issued under this chapter to any retailer where the place of business of the applicant is located within fifty yards of a private residence or a branch of the Nashville Public Library, which is on the same side of the street of the proposed retail store, or is within one hundred yards of any church or two hundred yards of a schoolground or college campus. These restrictions as to locations apply to conditions existing at the pre-sent. Changes in such conditions shall not entitle or forbid the location of liquor stores by reason of such unless otherwise provided by ordinance.

B. 1. A "private residence" is defined as a house or dwelling wherein not more than two families reside and shall not include an apartment house having facilities for housing more than two families, nor a boarding or roominghouse where there are five or more boarders or roomers.

2. Schools and colleges shall not include private colleges or schools wherein only specialized subjects, such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

C. In determining the distances from any private residence or branch of the Nashville Public Library or church, the distance shall be measured from the center of the main entrance of such structure and following the usual and customary path of pedestrian travel to the center of the main entrance of the proposed retail liquor store.

D. In determining distance from any schoolground or college campus, the distance shall be measured from the nearest location of such schoolground or college campus to the center of the main entrance of the proposed retail liquor store following the usual and customary path of pedestrian travel.

E. No certificate of compliance shall be issued to any retail liquor dealer where the place of business of the applicant is located within two hundred yards of another retail liquor store, such measurement being determined by projecting a line from the entrance of the store to the middle of the street and then measuring from that point to the new location; provided, that nothing in this subsection shall prohibit or in any manner limit or affect the renewal

of any retail certificate of compliance and the continuation of the operation of any retail liquor store licensed and in operation on May 1, 1968.

F. No certificate of compliance for the retail sale of liquor shall be issued where the applicant's proposed retail liquor store adjoins, abuts or is adjacent to an existing branch of the Nashville Public Library, a church or school. (Ord. 90-1339 § 1 (5-23), 1990; prior code § 5-2-49)

7.16.120 Residency and stock ownership requirements.

It shall be necessary for any person applying for a certificate of compliance to have been a bona fide resident of the metropolitan government area for at least two whole years before issuance of such a certificate. If the application is for a corporation, then all of its capital stock must be owned by individuals who have been residents of the metropolitan government for no less than two years next preceding. No stock of any corporation licensed by the alcoholic beverage commission shall be transferred to any person who has not been a resident for at least two years next preceding. (Ord. 90-1339 § 1 (5-1), 1990; prior code § 5-2-43)

7.16.130 Fee payment restrictions.

The certificate of compliance fee for every license issued under this chapter shall be payable by the person making application for such certificate of compliance and to whom it is issued, and no other person shall pay for any certificate of compliance issued under this chapter. In addition to any other penalty that may be imposed, a violation of this section shall authorize and require the revocation of the certificate of compliance, the fee for which was paid by another, and also the revocation of the certificate of compliance, if any, of the person so paying for the license of another. (Ord. 90-1339 § 1 (5-18), 1990; prior code § 5-2-42)

7.16.140 Issuance authority.

The mayor may, subject to the restrictions of this chapter, cause a certificate of compliance to be issued. (Ord. 90-1339 § (5-22), 1990; prior code § 5-2-48)

7.16.150 Effect of conviction of violating alcoholic beverage laws.

No certificate of compliance required by this chapter, or which may be issued hereunder, shall under any condition be issued to any person who, within ten years preceding application for such license or permit, shall have been convicted of any offense under the laws of the state, or of any state of the United States, prohibiting or regulating the sale, possession, transportation, storing or otherwise han-

dling alcoholic beverages or who has during such period been engaged in business, alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto, as they exist on March 2, 1939, or may exist hereafter. (Ord. 90-1339 § 1 (5-21), 1990; prior code § 5-2-45)

7.16.160 Expiration of permit.

A certificate of compliance issued pursuant to this chapter shall be valid for a period of two years from the date of issuance. (Ord. 90-1339 § 1 (5-13), 1990; prior code § 5-2-37)

7.16.170 Nontransferable—Temporary agents authorized when.

The holder of a license may not sell, assign or transfer such license to any other person; and such license shall be good and valid only for a period of twelve months from the date of issuance; provided, however, that licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee under this chapter, including the furnishing of a certificate of compliance. No person who is ineligible to obtain a license under this chapter shall be eligible to serve as the agent of a licensee under this section. (Ord. 90-1339 § 1 (5-15), 1990; prior code § 5-2-39)

7.16.180 Premises removal, relocation, transfer conditions.

A. Nothing in this chapter shall prohibit the removal from one location to another by a retailer already licensed, provided the location to which removal is sought is within one thousand twelve hundred feet of the present location of the premises so licensed. In such cases where removal is caused by the metropolitan government, state or federal government acquiring the property for public projects, however, the location to which removal is sought may be permitted within three thousand six hundred feet of the present location of the premises so licensed. In permitting the transfer of a certificate of compliance issued under this chapter, the certification of the mayor shall not issue unless the transferee meets all the requirements for the original issuance of the certificate of compliance.

B. Whenever a licensee whose premises is within the area defined in Section 7.16.030 loses his location, caused by no fault of the licensee himself, the licensee may be permitted to relocate within the urban services district area referred to in Section 7.16.030 to any suitable location

within the urban services area upon approval by the mayor and the alcoholic beverage commission, which the mayor shall not grant except in cases where the transferee meets all requirements for the original issuance of a certificate of compliance for the proposed location. (Ord. 90-1339 § 1 (5-16), 1990; prior code § 5-2-40)

7.16.190 Effect of felony conviction involving moral turpitude.

A. No person shall make application who has been convicted of a felony involving moral turpitude within ten years prior to the time he or the concern with which he is connected shall make application; provided, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction, and in case of any such conviction occurring after a license has been issued and received, the certificate of compliance shall immediately be revoked, if such convicted felon is an individual licensee, and, if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

B. No wholesaler or retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted he shall be immediately discharged; provided, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction. (Ord. 90-1339 § 1 (5-20), 1990; prior code § 5-2-44)

Chapter 7.20

BEER AND ALCOHOLIC BEVERAGES OF LESS THAN FIVE PERCENT

Sections:

7.20.010 More than one place of business—Permitted when.

7.20.020 Suspension and revocation of permit—Authority.

Wholesalers and Manufacturers

7.20.010 More than one place of business— Permitted when.

A. No wholesaler or distributor shall maintain more than one place of business, except those distributing draft beer.

B. Such distributors are authorized to store draft beer, for refrigeration purposes only, in one additional ice house or refrigeration plant under the following conditions:

1. Register the location of such ice house or refrigeration plant with the beer permit board;
2. Permit no sale or delivery of beer from such ice house or refrigeration plant except by salesmen or officials of such wholesale establishment;
3. Be subject to all rules, regulations and provisions of the beer laws at such ice house or refrigeration plant;
4. For the purpose of this article, any employee of such ice house or refrigeration plant who may in any manner be connected with the sale or distribution of beer stored therein shall be deemed to be an employee of the wholesaler or distributor whose beer is so stored, and any violation of this article or any provisions of the beer laws by such employee shall be deemed to be a violation by such wholesaler or distributor.

C. Except sales from trucks by salesmen, no beer shall be transferred from, sold in, stored in, brought to rest in, sold from, possessed in, receipted for at, manufactured, wholesaled or distributed from any other place, building or location, except from such building, place or location set out and called for in the wholesaler, distributor or manufacturer's beer permit, or such ice house or refrigeration plant. No beer shall be transferred to a retailer or any other purchaser except from the location called for in the wholesaler, distributor or manufacturer's beer permit, or such ice house or refrigeration plant, by any wholesaler, distributor or manufacturer, their salesmen or representatives. (Ord. 99-1794 § 16 (part), 1999; Ord. 93-579 §§ 2, 3, 1993; prior code § 5-2-69)

7.20.020 Suspension and revocation of permit—Authority.

In addition to any other penalty which may be imposed, the beer permit board shall have the power, within its discretion, in addition to any other penalty imposed, to suspend for a fixed period of time or to revoke permanently any wholesaler, distributor, retailer or manufacturer's beer permit, for any violation of this article, upon giving written notice to such wholesaler, distributor, retailer or manufacturer, in the manner and by the procedure prescribed by ordinance and the rules and regulations of the beer permit board governing the revocation of permits issued by it.

(Ord. 99-1794 § 16 (part), 1999; Ord. 93-579 § 4, 1993; prior code § 5-2-71)

Chapter 7.24

ALCOHOLIC BEVERAGE USE RESTRICTIONS

Sections:

- | | |
|-----------------|---|
| 7.24.010 | Retail liquor stores—Maximum number allowed. |
| 7.24.020 | Minors prohibited when—
Exceptions. |
| 7.24.030 | Prohibited acts or conduct—
Enforcement authority. |
| 7.24.040 | Alcoholic beverages in open containers. |

7.24.010 Retail liquor stores—Maximum number allowed.

The number of retail liquor stores in the area of the metropolitan government shall be limited to one per five thousand five hundred inhabitants of the entire metropolitan government area according to the 1970 federal census of population and each succeeding federal decennial census. Retail liquor stores located in satellite cities shall be included in the number authorized for Metropolitan Nashville and Davidson County. (Prior code § 5-1-33)

7.24.020 Minors prohibited when— Exceptions.

A. It is unlawful for any child under the age of nineteen years:

1. To be present in an automobile on any public street or highway when alcoholic beverages are consumed therein;

2. To be present in any public park not under the jurisdiction of the metropolitan board of parks and recreation or in any other place of public resort and be a companion of or otherwise associated with any person who is consuming alcoholic beverages;

3. Provided, nothing herein shall apply to establishments licensed to serve alcoholic beverages.

B. The provisions of this section shall not apply to a child who is accompanied by his parent, guardian or other adult person who has obtained written consent from the parent or guardian for the child to be present at such place. (Prior code § 5-1-32)

**7.24.030 Prohibited acts or conduct—
Enforcement authority.**

A. In addition to the other duties imposed by the metropolitan beer permit board by the Metropolitan Code of Laws, it shall be the duty of such board to enforce the provisions of this section and revoke or suspend the beer permit of any person, firm, corporation, syndicate or association, upon notice and hearing, for violation of the provisions of this section.

B. The following acts or conduct have been declared contrary to public policy by the General Assembly of the State of Tennessee when such activities take place upon premises licensed by the alcoholic beverage commission, pursuant to Tennessee Code Annotated Sections 57-4-101, et seq.; and the same are declared to be against the public policy of the metropolitan government of Nashville and Davidson County, and therefore, no beer permit shall be held at any premises where such contract or acts are permitted:

1. To employ, use or allow any person in the sale or service of beer or like alcoholic beverages in or upon the premises of a permittee while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

2. To employ, use or allow the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subdivision 1 of this subsection;

3. To encourage or permit any person on the premises of a permittee to touch, caress or fondle the breast, buttocks, anus or genitals of any other person;

4. To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

C. Acts or conduct on premises licensed by the alcoholic beverage commission pursuant to Tennessee Code Annotated Sections 57-4-101, et seq. have been deemed contrary to public policy by the General Assembly of the state of Tennessee, and are declared against the public policy of the metropolitan government of Nashville and Davidson County; and, therefore, no beer permit shall be held at any premises where such conduct or acts are permitted. Live entertainment is permitted on premises of a permittee except that:

1. No permittee shall permit any person to perform acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

b. The touching, caressing or fondling of the breast, buttocks, anus or genitals;

c. The displaying of the pubic hair, anus, vulva or genitals.

2. Subject to the provisions of subdivision 1 of this subsection, any entertainer who is employed in whole or in part by the permittee to dance at such permittee's premises shall perform only upon a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron.

3. No permittee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

4. No permittee shall permit any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus.

D. The following acts or conduct have been declared contrary to public policy by the General Assembly of the state of Tennessee when such activities take place upon premises licensed by the alcoholic beverage commission, pursuant to Tennessee Code Annotated Sections 57-4-101, et seq.; and the same are declared to be against the public policy of the metropolitan government of Nashville and Davidson County; and, therefore, no beer permit shall be held at any premises where such conduct or acts are permitted:

1. The showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

b. Any person being touch, caressed or fondled on the breast, buttocks, anus or genitals;

c. Scenes wherein a person displays the vulva or the anus or the genitals;

d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above. (Ord. 90-1339 § 1 (5-7), 1990; prior code § 5-1-34)

**7.24.040 Alcoholic beverages in open
containers.**

A. It shall be a violation for any person, while in or on a street, alley, sidewalk, parking lot, parking garage or other area generally open to the public, except (1) enclosed structures, (2) premises owned by scientific, religious or educational institutions, or (3) premises specifically permitted or licensed for the on-premises consumption of alcoholic beverages or beer; to have in their possession beer, ale, wine or other alcoholic beverage for the purpose of consumption in a glass, aluminum, or metal container unless such container is commercially sealed.

B. Possession of beer, ale, wine or other alcoholic beverage in an open container not permitted in subsection A hereof shall be prima facie evidence of having said beverage for the purpose of consumption. (Ord. 92-322 §§ 1, 2, 1992)